

errors in the implementation of the procedures of this part. Challenges may not introduce new information or documentation concerning the petition or the NIOSH or Board evaluation(s) that was not submitted or presented by the petitioner(s) or others to NIOSH or to the Board prior to the Board's issuing its recommendations under § 83.15.

(c) A panel of three HHS personnel, independent of NIOSH and appointed by the Secretary, will conduct an administrative review based on a challenge submitted under paragraph (b) of this section and provide recommendations of the panel to the Secretary concerning its merits and the resolution of issues contested by the challenge. Reviews by the panel will consider, in addition to the views and information submitted by the petitioner(s) in the challenge, the proposed decision, the NIOSH evaluation report(s), and the report containing the recommendations of the Board issued prior to the proposed decision under § 83.15. The reviews may also consider information presented or submitted to the Board and the deliberations of the Board prior to the issuance of the recommendations of the Board under § 83.15. The panel shall consider whether HHS substantially complied with the procedures of this part, the factual accuracy of the information supporting the proposed decision, and the principal findings and recommendations of NIOSH and those of the Board issued under § 83.15.

(d) The Secretary will make the final decision to add or deny adding a class to the Cohort, including the definition of the class, after considering information and recommendations provided to the Secretary by NIOSH, the Board, and from an HHS administrative review when such a review is conducted under paragraph (c) of this section. HHS will transmit a report of the decision to the petitioner(s), including an iteration of the relevant criteria, as specified under § 83.13(c), and a summary of the information and findings on which the decision is based. HHS will also publish a notice summarizing the decision in the FEDERAL REGISTER.

**§ 83.17 How will the Secretary report a final decision to add a class of employees to the Cohort and any action of Congress concerning the effect of the final decision?**

(a) If the Secretary designates a class of employees to be added to the Cohort, the Secretary will transmit to Congress a report providing the designation, the definition of the class of employees covered by the designation, and the criteria and findings upon which the designation was based.<sup>4</sup>

(b) A designation of the Secretary will take effect 180 calendar days after the date on which the report of the Secretary is submitted to Congress, unless Congress takes an action that reverses or expedites the designation.

(c) After either the expiration of the congressional review period or notification of final congressional action, whichever comes first, the Secretary will transmit to DOL and to the petitioner(s) a report providing the definition of the class and one of the following outcomes:

(1) The addition of the class to the Cohort; or

(2) The result of any action by Congress to reverse or expedite the decision of the Secretary to add the class to the Cohort.

(d) The report specified under paragraph (c) of this section will be published on the Internet at [www.cdc.gov/niosh/ocas](http://www.cdc.gov/niosh/ocas) and in the FEDERAL REGISTER.

**§ 83.18 How can the Secretary cancel or modify a final decision to add a class of employees to the Cohort?**

(a) The Secretary can cancel a final decision to add a class to the Cohort, or can modify a final decision to reduce the scope of a class added by the Secretary, if HHS obtains records relevant to radiation exposures of members of the class that enable NIOSH to estimate the radiation doses incurred by individual members of the class through dose reconstructions conducted under the requirements of 42 CFR part 82.

(b) Before canceling a final decision to add a class or modifying a final decision to reduce the scope of a class, the

<sup>4</sup> See 42 U.S.C. 7384l(14)(C)(ii).